REMARKS

Claims 1, 13, 15 and 16 have been amended. Claims 7, 14 and 18-20 have been canceled. No new matter has been added. Thus, claims 1-6, 8-13, 15-17 and 21 remain pending in the present application. In view of the above noted amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are in condition for allowance.

Claim 1-6, 8-17 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publ. Appln. No. 2002/0151770 to Noll et al. ("Noll") in view of U.S. Patent No. 6,464,687 to Ishikawa et al. ("Ishikawa") in further view of U.S. Patent No. 6,214,012 to Karpman et al. ("Karpman").

Amended claim 1 recites "[a] component for an arrangement at an implant, comprising: a basic component, including: at least one sensor device for detecting a measurement variable and generating measuring data for the detected measurement variable; a telemetry device configured for at least one of transmitting and receiving data; a data transmission connection arranged in the basic component between the at least one sensor device and the telemetry device for the transmission of data therebetween, the data including the measuring data; an assembly arrangement detachably mounting the basic component in an implant recess of the implant; and a receiving chamber located within the basic component and configured to accommodate an active ingredient therein, the receiving chamber extending to an opening at a first end section of the basic component for discharging the active ingredient therefrom, *wherein the basic component is configured to be insertable through an implant recess of an implant positioned over a target portion of a bone so that the opening is seated over an outer periphery of the target portion of the bone.*"

It is respectfully submitted that Noll, Ishikawa and Karpman fail to teach or suggest the limitation of "*wherein the basic component is configured to be insertable through an implant recess of an implant positioned over a target portion of a bone so that the opening is seated over an outer periphery of the target portion of the bone*," as recited in amended claim 1. Rather, Noll is directed to a device for measuring and communicating parameters of a brain, the device comprising a probe 12 insertable through a hole drilled in a patient's skull 50 so that the probe 12 is positioned within the cranial cavity. (*See* Noll, ¶ [0002]-[0004], [0057]; Figs. 3-7). It is

respectfully submitted that Noll makes no disclosure of an implant at all and thus does not teach or suggest a device being configured to be positioned within a recess of an implant.

The Examiner has cited the device of Karpman to overcome the above-recited deficiency in Noll. (*See* 2/22/10 Office Action, p. 5). However, it is respectfully submitted that Karpman is directed only to a bone plate 239 having a bone screw 230 insertable therethrough and through a target bone. (*See* Karpman, col. 11, ll. 13-62; Figs. 6, 7, 10). The bone screw 230 and bone plate 239 of Karpman are configured so the bone screw 230 extends completely through the bone and slots 40, 42 extending through the shaft are open to various portions of the bone. (*Id.* at col. 7, ll. 43-64; Fig. 4). It is therefore evident that Karpman does not teach or suggest "the basic component [being] configured to be insertable through an implant recess of an implant positioned over a target portion of the bone *so that the opening [at a first end section of the basic component] is seated over an outer periphery of the target portion of the bone*," as recited in amended claim 1 and rather teaches a bone screw extending through the bone. It is respectfully submitted that the field of bone plates and bone fixation screws being inserted through a bone are known in the art. The device of the present invention as claimed in claim 1, on the other hand, seeks to employ a component positioned along an outer periphery of a bone in a non-invasive manner to read sensory information therefrom and provide an active ingredient thereto as needed. It is evident that Karpman does not teach or suggest anything capable of meeting these limitations in claim 1. Furthermore, since Karpman is directed to bone screws 30, 130, 230 having cross slots 40, 42, 140, 142, 240, 242 extending through a shaft portion thereof, it is further respectfully submitted that the device of Karpman is incapable of being modified to meet the above-recited limitation of claim 1. That is, the device of Karpman is configured on the basis of an injectable material (i.e., cement) traveling out of the slots to secure the bone screw to the bone. (*Id.* at col. 8, ll. 45-53). Modifying the device of Karpman "so that the opening [at a first end section of the basic component] is seated over an outer periphery of the target portion of the bone," as recited in claim 1 would be detrimental to the intent of Karpman as it would prevent the device from being properly secured to the bone. Still further, it is respectfully submitted that Karpman does not teach or suggest a device that may be positioned along an outer periphery of a bone and rather, is explicitly directed to bone screws for screwing through a bone. Furthermore, modification of the device of Karpman to overcome the limitations of claim 1 would require significant changes to the structure of both the bone plate 239 and the bone screw 230, changes that are unwarranted in light of the Karpman disclosure and which would constitute an improper

hindsight reconstruction of the invention. It is therefore respectfully submitted that neither Noll nor Karpman, taken alone or in combination teach or suggest "the basic component [being] configured to be insertable through an implant recess of an implant positioned over a target portion of the bone so that the opening is seated over an outer periphery of the target portion of the bone," as recited in claim 1.

Ishikawa also fails to cure this deficiency in Noll and Karpman. Specifically, Ishikawa is directed to a drug delivery capsule system for subcutaneous implantation in an organ or luminal duct. (*See* Ishikawa, col. 11, ll. 1-21). Ishikawa does not teach or suggest any device insertable through an implant and thus also fails to teach the limitations of amended claim 1.

It is therefore respectfully submitted that Noll, Ishikawa and Karpman, taken alone or in any combination, fail to teach or suggest the limitation of "a basic component, including...a receiving chamber located within the basic component and configured to accommodate an active ingredient therein, the receiving chamber extending to an opening at a first end section of the basic component for discharging the active ingredient therefrom, wherein the basic component is configured to be insertable through an implant recess of an implant positioned over a target portion of the bone so that the opening is seated over an outer periphery of the target portion of the bone," as recited in claim 1 and that claim 1 is in conditional for allowance. Because claims 2-6, 8-13, 15-17 and 21 depend from and therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: April 22, 2010

By: _____
Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, New York 10038
Tel: (212) 619-6000
Fax: (212) 619-0276